

SENATE BILL 3936
By Haynes

AN ACT to amend Tennessee Code Annotated, Title 56,
Chapter 7, Part 23, relative to insurance policies
and policyholders.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-7-2359, is amended by deleting the section in its entirety and by substituting instead the following language:

(a) No health insurance issuer and no managed health insurance issuer may:

(1) Deny any licensed pharmacy, licensed pharmacist, licensed durable medical equipment supplier or licensed home medical supplier the right to participate as a participating provider in any policy, contract or plan on the same terms and conditions as are offered to any other provider of pharmacy services or supplier of medical equipment under the policy, contract or plan; provided, that nothing herein shall prohibit a managed health insurance issuer or health insurance issuer from establishing rates or fees that may be higher in non-urban areas, or in specific instances where a managed health insurance issuer or health insurance issuer determines it necessary to contract with a particular provider in order to meet network adequacy standards or patient care needs; or

(2) Prevent any person who is a party to or beneficiary of any policy, contract or plan from selecting a licensed pharmacy, licensed durable medical equipment supplier or licensed home medical supplier of such person's choice to furnish the pharmaceutical services or medical supplies offered under any contract, policy or plan; provided the pharmacy, durable medical equipment supplier or home medical supplier is a participating provider under the same

terms and conditions of the contract, policy or plan as those offered any other provider of pharmacy services or supplier of medical equipment.

(b) Notwithstanding any provision of this chapter to the contrary, a health insurance issuer or managed health insurance issuer may restrict an abusive or heavy utilizer of pharmacy services to a single pharmacy provider for non-emergency services, so long as the individual to be restricted has been afforded the opportunity to participate in the process of selection of the pharmacy to be used, or has been given the right to change the pharmacy to be used to another participating provider of pharmacy services prior to such restriction becoming effective. After a restriction is effective, the individual so restricted shall have the right to change a pharmacy assignment based on geographic changes in residence or if the member's needs cannot be met by the currently assigned pharmacy provider.

(c) If a managed health insurance issuer or health insurance issuer revises its drug formulary to remove a drug from a previously approved formulary, the health insurance issuer or managed health insurance issuer shall allow a subscriber or enrollee an opportunity to file a grievance relative to the decision to remove such drug. The grievance must be filed within sixty (60) days after notification to the provider that the drug is being removed. If the grievance is filed with a managed health insurance issuer or health insurance issuer within ten (10) days after the subscriber or enrollee knows or should have known that the drug is being removed, the subscriber or enrollee may continue to receive the drug that is being removed from the formulary until the managed health insurance issuer or health insurance issuer completes the grievance process. The provisions of this subsection shall not apply to any drug removed from a previously approved formulary when the reason for such removal is due to patient care concerns or other potentially detrimental effects of the drug. Nothing contained in this section shall be

construed or interpreted as applying to the TennCare programs administered pursuant to the waivers approved by the United States department of health and human services.

(d) For purposes of this section, unless the context otherwise requires:

(1) "Licensed durable medical equipment supplier" and "licensed home medical supplier" means a home medical equipment provider licensed pursuant to title 63, part 10, or title 68, chapter 11; and

(2) "Managed health insurance issuer" has the same meaning as such term is defined in §56-32-228(a).

(e) Each health insurance issuer or managed health insurance issuer shall apply the same coinsurance, co-payment, deductible and quantity limit factors within the same employee group and other plan-sponsored group to all drug prescriptions filled by any licensed pharmacy provider, whether by a retail provider or a mail service provider; provided, that all pharmacy providers comply with the same terms and conditions. Nothing in this section shall be construed to prohibit the health insurance issuer or managed health insurance issuer from applying different co-insurance, co-payment, and deductible factors within the same employer group and other plan-sponsored group between generic and brand-name drugs nor prohibit an employer or other plan-sponsored group from offering multiple options or choices of health insurance benefit plans including, but not limited to, cafeteria benefit plans.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring

it.